

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LEO HUNTER,  
  
Petitioner,  
  
v.  
  
ISIDRO BACA, et al.,  
  
Respondents.

Case No. 3:18-cv-00166-HDM-VPC

**ORDER**

Petitioner has paid the filing fee. The court has reviewed the petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The court will serve the petition upon respondents for a response

Petitioner has submitted a motion for appointment of counsel. Whenever the court determines that the interests of justice so require, counsel may be appointed to any financially eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.” Weygandt v. Look, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to counsel in federal habeas proceedings. McCleskey v. Zant, 499 U.S. 467, 495 (1991). The factors to consider are not separate from the underlying claims, but are intrinsically enmeshed with them. Weygandt,

1 718 F.2d at 954. After reviewing the petition, the court finds that appointment of counsel is not  
2 warranted.

3 IT THEREFORE IS ORDERED that the clerk of the court shall file the petition for a writ  
4 of habeas corpus pursuant to 28 U.S.C. § 2254.

5 IT FURTHER IS ORDERED that the clerk shall add Adam Paul Laxalt, Attorney General  
6 for the State of Nevada, as counsel for respondents.


7 IT FURTHER IS ORDERED that the clerk shall electronically serve upon respondents a  
8 copy of the petition and this order. In addition, the clerk shall return to petitioner a copy of the  
9 petition.

10 IT FURTHER IS ORDERED that respondents shall have forty-five (45) days from the  
11 date on which the petition was served to answer or otherwise respond to the petition.  
12 Respondents shall raise all potential affirmative defenses in the initial responsive pleading,  
13 including untimeliness, lack of exhaustion, and procedural default. Successive motions to dismiss  
14 will not be entertained. If respondents file and serve an answer, then they shall comply with Rule  
15 5 of the Rules Governing Section 2254 Cases in the United States District Courts, and then  
16 petitioner shall have forty-five (45) days from the date on which the answer is served to file a  
17 reply. If respondents file a motion, then petitioner will have fourteen (14) days to file a response  
18 to the motion, and respondents will have seven (7) days from the date of filing of the response to  
19 file a reply.

20 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2(g), paper copies  
21 of any electronically filed exhibits need not be provided to chambers or to the staff attorney,  
22 unless later directed by the court.

23 IT FURTHER IS ORDERED that petitioner's motion for appointment of counsel is  
24 **DENIED.**

25 DATED: July 20, 2018.

26 

27 HOWARD D. MCKIBBEN  
28 Senior U.S. District Judge